



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 6835-99
11 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 13 January 1956 at age 17. The record shows that during the period from 12 September 1956 to 17 April 1957 you received nonjudicial punishment and were convicted by a summary court-martial and a special court-martial. Your offenses were five periods of unauthorized absence totaling about 23 days, missing ship's movement, disobedience, and breaking restriction.

On 12 July 1957, you reported aboard the USS JENKINS (DDE 447). On 22 September 1957 you began a period of unauthorized absence and missed ship's movement. About that time you were arrested by Japanese authorities on serious charges. Subsequently, you were returned to the Navy and placed on legal hold pending trial.

On 21 February 1958 you were convicted by Japanese authorities of wounding through robbery. The court sentenced you to serve two years in prison. On 3 September 1958, an appeals court affirmed the conviction but found that your intoxication was a mitigating factor and suspended the punishment. There is no indication in the record that you were actually confined in a Japanese prison while the appeal was pending.

On 19 September 1958 you were convicted by a summary court-martial of breaking restriction and possession of a false liberty and overnight pass. Subsequently, you were an unauthorized absentee for about three days.

Based on the foregoing record of misconduct you were processed for an administrative discharge. On 2 January 1959 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with an undesirable discharge. You were so discharged on 3 February 1959.

In its review of your application the Board carefully waived all potentially mitigating factors, such as your youth and limited education. The Board found that these factors were not sufficient to warrant recharacterization of your discharge given your frequent and serious misconduct. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director